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DEPARTMENT FOR NEA/FO (GRAY AND CARPENTER)  
NEA/MAG (HOPKINS/HARRIS); NEA/PI; DRL  
LONDON AND PARIS FOR NEA WATCHER

E.O. 12958: DECL: 08/28/2017  
TAGS: PHUM PGOV PREL KDEM KPAO TS  
SUBJECT: PLAINTIFF DROPS DEFAMATION CASE AGAINST TUNISIAN  
JOURNALIST

REF: A. TUNIS 1133

1B. TUNIS 153

Classified By: Charge d,Affaires a.i. Marc Desjardins for reasons 1.4 b  
& d

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Summary  
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11. (C) After Tunisian journalist Omar Mestiri made his third court appearance in his defamation trial on August 28, the plaintiff suddenly dropped his complaint and the case was dismissed. However, Tunisian prosecutors have the power to appeal the case months or years after the fact, even in such circumstances. Mestiri has opined that irregularities in the proceedings suggest that his trial was politically motivated.

Mestiri was charged soon after he wrote two articles accusing President Ben Ali's family of corruption, although the charges themselves pertained to an article Mestiri authored questioning the reinstatement of attorney Mohamed Baccar (the plaintiff), who had been disbarred following convictions for fraud and forgery. End Summary.

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A Day in Court  
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12. (C) On August 28, Tunisian journalist Omar Mestiri made his third court appearance in his ongoing defamation trial. Mestiri was being sued for defamation by attorney Mohamed Baccar after Mestiri authored an article criticizing the circumstances under which Baccar's license to practice law was reinstated (Baccar previously had been disbarred for fraud and forgery). Mestiri contends that his trial was politically motivated because he wrote articles accusing the family of President Ben Ali of corruption, citing irregularities in court proceedings as evidence and questioning Baccar's motivation for publicizing the events surrounding his reinstatement (Ref A). Like most legal cases in Tunisia, the trial was based primarily on written statements and documents, not first person testimony.

13. (C/NF) The August 28 proceedings were marked by a lengthy argument between the presiding judge and Mestiri's attorneys over courtroom procedure. Unlike Mestiri's August 16 court appearance, several diplomatic observers were present on August 28. UK EmbOff, who attended the proceedings with PolOff, speculated that at several points during the trial, it seemed as if the judge was stopping the proceedings so that he could confer with GOT officials.

Then, unexpectedly, the plaintiff, Mohamed Baccar, dropped his complaint against Mestiri. The judge subsequently announced that given the plaintiff's withdrawal of his complaint, the case against Mestiri was dismissed.

¶4. (C) Despite the dismissal, Tunisian prosecutors have the right to pursue cases without a plaintiff. As we saw in the case of Post, s Senior Political FSN, prosecutors also have the power to appeal court decisions months or years afterwards, even if the original plaintiff chooses not to pursue the matter (Ref B). Mestiri's wife Sihem Bensedrine told PolOff on August 29 that although the family is optimistic, they are cognizant of the fact that the case could be revived by prosecutors in the future. (Note: Bensedrine, spokesperson for the unauthorized NGO National Council for Liberties in Tunisia, noted that she will travel to the United States in December where she plans to meet with human rights activists, NGOs, and members of Congress. End Note.)

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Comment  
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¶5. (C) Mestiri's trial, politically motivated or not, is more evidence of the often contradictory nature of the GOT. While journalists who criticize the GOT often report harassment, the timing and nature of the harassment seems to be random and can increase or dissipate without notice or cause. For the moment, the GOT does seem to respond to international criticism. We will continue to demonstrate our support for freedom of the press. End Comment.  
DESJARDINS